

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN MUIR HEALTH,
Plaintiff,

v.

CEMENT MASONS HEALTH AND
WELFARE TRUST FUND FOR
NORTHERN CALIFORNIA,
Defendant.

Case No. 14-cv-03115-TEH

**ORDER RE: HEARING ON
PLAINTIFF'S MOTION TO
REMAND**

The parties shall come prepared to address the following at the September 22, 2014 hearing on Plaintiff John Muir Health's motion to remand:

1. How should the Court apply the Ninth Circuit's decision in *Marin General Hospital v. Modesto & Empire Traction Co.*, 581 F.3d 941 (9th Cir. 2009), which neither party cited in its papers but which appears instructive, to the facts of this case?

2. Is Plaintiff's claim under California Health & Safety Code section 1371.4 preempted under the reasoning of *Cleghorn v. Blue Shield of California*, 408 F.3d 1222 (9th Cir. 2005)? Plaintiff's Reply failed to respond to this argument, *see* Opp'n at 9 (Docket No. 11), despite its clear import to the question of federal jurisdiction.

3. What is the proper application of the Second Circuit's decision in *Montefiore Medical Center v. Teamsters Local 272*, 642 F.3d 321 (2nd Cir. 2011), which was relied upon heavily in Defendant's Opposition, but which appears to be at odds with *Marin General Hospital* and went unaddressed in Plaintiff's Reply.

IT IS SO ORDERED.

Dated: 09/16/14



THELTON E. HENDERSON
United States District Judge